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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,042	11/13/2001	Jan Folkmar	PAG012	6293
7590 03/04/2004				
KENNETH M. GARRETT 392 LAKESHORE ROAD EAST OAKVILLE, ON L6J 1J8 CANADA		EXAMINER WEINSTEIN, STEVEN L		
		ART UNIT PAPER NUMBER 1761		

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/987,042

Applicant(s)

FOLKMAR, JAN

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/13/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17-2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-9, 10-13, 16-21 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Ooms (EP 757,006).

In regard to claim 1, Ooms discloses a disposable piping bag comprising a thin flexible pouch with an expressible, viscous medium sealed therein, said pouch collapsing on the expression of said medium therefrom, said pouch having a neck portion adjacent one axial end thereof having conically reducing transverse cross-section; nozzle means including a funnel-like nozzle base (e.g. # 5) comprising conically inclined wall portions and a spout portion connected in flow relationship therewith; said conically inclined wall portions having surface dislocations thereon (e.g. the threads); said nozzle base (note that claim 1, recites "hose") being disposed at least in part within said pouch with neck portions thereof in gripping relationship with the conically inclined wall portions so as to create a seal thereon with said surface dislocations tending to resist reactive forces generated by said pouch to urge said nozzle base out of its gripped, sealed relationship, said nozzle means further comprising a nozzle cap, e.g. # 6 or 14, (note that claim 1 recites "cup") disposed outside the pouch; said nozzle base and nozzle cap including complementary coupling means for selectively coupling the cap to the base with portions of the pouch trapped therebetween and security means

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covering the outlet of the spout portion to prevent the expression of the medium from the pouch (which can be the closed tip of the pouch). This is all claim 1 is seen to positively recite. In regard to claim 10, which recites a "kit", all the elements recited in claim 10 are disclosed by Ooms so that if claim 10 recites a kit, then Ooms does as well.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooms (Ep '006) in view of Inayoshi et al (4,869,915) and Tedeschi et al (6,065,651).

Claim 5 differs from Ooms in the recitation that the pouch has a relatively constant cross-section in the upper portion. As evidenced by Inayoshi et al and Tedeschi, it was conventional in the art to provide such configuration on a dispensing squeeze pouch. To modify Ooms and substitute one conventional configuration for another conventional configuration is seen to have been an obvious matter of choice and/or design.

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooms (Ep '006) in view of Gastner (4,888,188).

Claim 6 differs from Ooms in that the connection is made by shrink fitting. As evidenced by Pastner, it is conventional to secure two elements together by shrink fitting e.g. a covering onto a dispensing element. To modify Ooms and employ a

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conventional technique to secure the two elements together for its art recognized and applicants' intended function would therefore have been obvious.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooms (Ep '006) in view of Craig (GB 2,237,224) and applicant's admission of the prior art.

Claim 26 differs from Ooms in the recitation that the nozzle is stainless steel. As evidenced by Craig and applicant's admission of the prior art, stainless steel nozzles are notoriously conventional and to modify Ooms, if necessary, and employ stainless steel for its art recognized and applicants' intended function would therefore have been obvious.

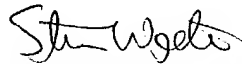
The remainder of the references cited on the USPTO 892 form are cited as pertinent art.

Any inquiry concerning this communication from the examiner should be directed to Steven L. Weinstein whose telephone number is (571) 272-1410. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (571) 272-1201.

S. Weinstein/dh
February 11, 2004


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
Remse 8A69
2/10/04